

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE**

**Call to Order:** By **CHAIRMAN BOB KEENAN**, on February 20, 2001 at 7:00 P.M., in Room 303 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bob Keenan, Chairman (R)  
Sen. Ken Miller, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. William Crismore (R)  
Sen. Greg Jergeson (D)  
Sen. Royal Johnson (R)  
Sen. Bea McCarthy (D)  
Sen. Arnie Mohl (R)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Corey Stapleton (R)  
Sen. Bill Tash (R)  
Sen. Jon Tester (D)  
Sen. Mignon Waterman (D)  
Sen. Jack Wells (R)  
Sen. Tom Zook (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Jon Moe, Legislative Fiscal Division

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 96, 2/19/2001  
Executive Action: SB 96; SB 293; SB 231; SB 88;  
SB 332; SB 289

HEARING ON SB 96

Sponsor: SEN. DALE MAHLUM, SD 35, Missoula

Proponents: Jerry Driscoll, Montana State Building Trades  
Nancy Butler, State Fund  
Barry Stang, Montana Motor Carriers

Opponents: None.

Opening Statement by Sponsor:

SEN. BEA McCarthy opened on SB 96 for SEN. DALE MAHLUM, SD 35, Missoula, a bill to revise the waiting period for temporary total disability benefits.

Proponents' Testimony:

Jerry Driscoll, Montana State Building Trades, handed out a document from the Department of Labor. **EXHIBIT(fcs42a01)** Originally, the bill called for temporary total benefits from the third day if a worker was off more than fourteen days. Instead of paying on the seventh day, benefits will start on the sixth day. The Department of Labor said there was an average of 4,121 accidents in the last two-year average. The average amount of pay was \$36.41 for a total cost of \$150,045.61 for all three funds: State Fund, private insurers, and self-insurers. General fund costs would probably be approximately \$8000.

Nancy Butler, State Fund, said she had supported the bill, as amended, in the Business and Labor Committee. State Fund supplied information for a fiscal note. Since the fiscal note came out, NCCI (National Council on Compensation Insurance), who provides advisory rates for workers' compensation purposes, revised their pricing. In the fiscal note the rate was .4 to .5%. The revised rate was .2 to .4%. That is closer to the information supplied by the Department of Labor.

Barry Stang, Montana Motor Carriers, spoke in support of SB 96. George Wood, Montana Self Insurer's Association, was placed on record in support of SB 96.

Opponents' Testimony:

None.

Closing by Sponsor:

SEN. McCarthy closed on SB 96.

**EXECUTIVE ACTION ON SB 96**

**Motion/Vote:** SEN. MILLER moved that SB 96 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 293**

CHAIRMAN BOB KEENAN stated that he believed the committee had moved too quickly on SB 293, the Montana Driver License Protection Act, on February 15, 2001. He said he talked to Mr. Roberts and that there is an amendment that will be offered on the floor that will take the information that they have, and bring the bill back into revenue neutrality.

**Motion/Vote:** SEN. STAPLETON moved TO RECONSIDER ACTION TO TABLE SB 293. Motion carried unanimously.

**Motion/Vote:** SEN. STAPLETON moved that SB 293 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 231**

**Motion:** SEN. WELLS moved TO RECONSIDER ACTION ON SB 231.

**Discussion:**

CHAIRMAN KEENAN explained that SB 231, sponsored by SEN. GRIMES, was a bill revising ANB to include pupils educated via distance learning. The bill was indefinitely postponed. SEN. TOM BECK asked if a two-thirds vote was needed to bring the bill back up for discussion. He said a table is a majority vote with no debate. His understanding was that there is debate with an indefinite postponement.

SEN. MCCARTHY asked if there was a change in the fiscal note since the bill was heard. CHAIRMAN KEENAN stated there was no change.

SEN. ROYAL JOHNSON referred the committee to page 2, line 5 of the bill. He questioned the change from "standards promulgated by the Board of Education" to "Superintendent of Public Instruction." He thought it was the province of the Board of Education. The Office of Public Education did the work. He asked if the Office of Public Education is the staff for the Board of Public Education. He asked why not leave the responsibility with the Board of Public Education. SEN. MIGNON

**WATERMAN** recalled that the bill was not talking about the standards, but rather the rules that govern distance learning. She thought those were done by OPI. **SEN. WELLS** said to look in Section 1, which said that the "Superintendent of Public Instruction will adopt rules in regard the delivery of distance learning."

**SEN. JOHNSON** asked **SEN. GREG JERGESON** for his take on the situation. He thought that whether it was rules or anything else, that the Board of Public Education are the people who make those decisions, not OPI. **SEN. JERGESON** said he was not sure what was actually going on. He said that often OPI might promulgate the standards, but they have to be heard, determined and adopted by the Board of Public Education. He was not sure why one version had the Board of Public Education and the Superintendent of Public Instruction involved and why the other version has the Superintendent of Public Instruction, not the Board of Public Education. It seemed to him that both probably ought to be involved. He had some other thoughts on the whole issue to explain why he previously voted against the bill which he offered to present later in the discussion.

**SEN. WELLS** said his notes from the hearing showed five proponents, with no opponents. He did not recall exactly why the section was added. He thought SB 231 was a good bill and he received a lot of e-mail on the bill from around the state from people who feel they can benefit or their kids can benefit from this type of delivery or different kinds of curriculum. His notes indicated that discussion was held on putting a sunset on the bill. He thought the program should be tried to see what might result and thought it would benefit students in outlying districts who might not have access to certain curriculums or types of courses otherwise.

**SEN. JERGESON** said his concerns about the bill were not that he did not think it was a good idea or that he wouldn't want to see those children served. He thought a two year period was needed to prepare to move into it. It is not a simple matter to put a quality internet course online. A teacher cannot teach a classroom course that involves lectures, and simultaneously put that same thing on the internet without a considerable amount of time being involved in it. The nursing program at MSU Northern received an \$82,000 grant from e-college.com. All of that money was devoted to putting courses on the internet. It is going to be an expensive proposition for faculty and school districts to implement a quality internet course for students in outlying areas. He thought SB 231 was a good idea that needed to be implemented, but was not something that can be done by waving a

magic wand. He thought legislators and school districts needed to prepare themselves to implement distance learning.

**SEN. BECK** stated again that a 2/3 vote was needed to move the bill from indefinitely postpone.

**Vote:** Motion **TO RECONSIDER COMMITTEE ACTION ON SB 231** carried **14-4** with **Christiaens, Jergeson, McCarthy, and Nelson** voting no. **CHAIRMAN KEENAN** carried a proxy for **SEN. SHEA** who left the room momentarily.

**CHAIRMAN KEENAN** stated that since 13 votes would be 2/3, the action on SB 231 was reconsidered.

**Motion:** **SEN. STAPLETON** moved that **SB 231 DO PASS**.

**SEN. TOM ZOOK** said he agreed with the idea, but had a concern about the sizable fiscal impact. He voted to reconsider but needed to be convinced that the impact was different than the fiscal note stated. He did not know how it was estimated how many kids would actually apply, or when it would come into effect.

**SEN. KEN MILLER** shared his concerns. He talked to **Amy Carlson**, who prepared the fiscal note. He believed that a new fiscal note would be appropriate as the bill moves along in the process. Most of the home schoolers that he knew already had their curriculum and few, if any, would be interested. The fiscal note calculates that 10% of high schoolers will participate, a number he felt was not nearly correct. He planned to work on the issue if the bill moves forward.

**Vote:** Motion that **SB 231 DO PASS** carried **14-4** with **Christiaens, Jergeson, McCarthy, and Mohl** voting no.

#### **EXECUTIVE ACTION ON SB 88**

**Motion:** **SEN. BECK** moved **TO RECONSIDER COMMITTEE ACTION ON SB 88**.

**SEN. WATERMAN** spoke against the motion to reconsider action of SB 88. She had amended the bill to lower the fiscal note and added language that says if it isn't funded, the bill dies. She wanted to see the bill continue to move through the process, and said she would like to see it go to the floor. She re-stated that it was voted previously to send the bill out of committee and she was speaking against reconsidering.

**Vote:** Motion **TO RECONSIDER SB 88** passed **11-7** with **Christiaens, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman** voting no.

**Motion/Vote:** SEN. BECK moved that SB 88 BE TABLED. Motion carried 11-7 with Christiaens, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting no.

**EXECUTIVE ACTION ON SB 332**

**Motion:** SEN. BECK moved TO RECONSIDER COMMITTEE ACTION ON SB 332.

SEN. JERGESON inquired, given what happened with the last bill, what was occurring and why. SEN. BECK replied that with the serious fiscal crunch that is being looked at, some decisions were made and he was following through. He stated that what he was doing was to table the bills because of the fiscal impact. It was something they reconsidered and that's it. There is nothing against the sponsor or anything else. It's the fiscal impact that is being looked at and trying to hold the fiscal impact back. SEN. JERGESON was concerned that the committee was not worried about the fiscal impact with another bill that was sent out of committee after a motion to reconsider. With these bills, the sponsor worked on amendments to reduce the fiscal impact and using contingent voidness language according to the rules, that makes the bills not effective if they are not funded. He wasn't sure why there was a fiscal issue with the bills necessitating this kind of action.

CHAIRMAN KEENAN addressed the question. He stated that in the Subcommittee on Human Services, he has become more and more concerned with the fiscal impact of SB 332 and how it related to other bills that are going through the process. The numbers vary which started to pique his attention; and as they concluded their subcommittee work, he was nervous about that. DPHHS found as many kids as they could find at 150% of poverty level, and they want to raise the level of poverty. Kids are going into Medicaid, the eligibility for CHIP will possibly be raised, and there will be waiting lists. CHIP eligibility will maintain the same amount of money, raise the eligibility and then will slowly ratchet up further and further with eligibility and numbers. His concern was fiscal impact. The bill came straight to the Finance Committee, so the committee was making both a policy and fiscal decision. It was stated in the hearing on the bill that people who work in human services thought that eliminating the assets test was a good idea. The department said that it wouldn't reduce paperwork necessarily, and wouldn't reduce any FTEs. SB 332 has a big impact and is a big policy move. As the subcommittee worked through it and funded it, he became increasingly concerned in the last week and did not want to make the policy decision.

**SEN. WATERMAN** recounted that she put a contingency voidness on the bill. At any point, if the majority thought that it isn't a good policy decision, they could remove the funding. The bill was funded unanimously out of the Human Services Subcommittee. County directors testified that they didn't think any FTE should be cut because employees are overworked. In the fiscal note, it was estimated that 15 minutes per application for Medicaid will be saved. Removing the resource test cuts down on the paperwork. The State of Oklahoma eliminated the resource test in 1997, and saved over \$2 million. She wondered how a department could be asked to do less work and not save any money. She said that, of course, they would say that all those individuals are needed. If they are as overworked as they say, this will free some time up. If they're not that overworked, then there could be some savings of FTE. She also mentioned that Governor Martz supported the bill. **SEN. WATERMAN** said she had done everything she could to make the bill acceptable to the majority. It was funded in HB 2, and has a contingent voidness in it. She said that if people have concerns about the bill, then discussion should be held as it moves through the process. If the bill is killed, it doesn't meet transmittal, and then the policy discussion is over. The bill not only cuts down on paperwork and eliminates bureaucracy, which the governor and the majority of her party said they wanted, it also gets more people eligible for low cost insurance in the state. As far as ratcheting up eligibility, eligibility for CHIP is at 150% of poverty. The eligibility in SB 332 is 133% of poverty. She suggested that the committee pass the bill if they want to insure low income Montanans, and don't up the eligibility for CHIP or give any more funding to CHIP. She suggested they go after CHIP, not the bill. The bill was for people who are under 133% of poverty.

**Vote:** Motion TO RECONSIDER SB 332 carried 10-8 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting no.

**Motion:** SEN. BECK moved that SB 332 BE TABLED.

**Substitute Motion:** SEN. JERGESON moved TO ADJOURN.

**SEN. JERGESON** said the motion to adjourn is a privileged motion and non-debatable.

**Vote:** Motion to adjourn failed 7-11 with Christiaens, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.

**Vote:** Motion that SB 332 BE TABLED carried 10-8 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting no.

**EXECUTIVE ACTION ON SB 289**

**Motion:** SEN. BECK moved TO RECONSIDER COMMITTEE ACTION ON SB 289.

**Discussion:**

SEN. TESTER said he knew where the train was going, and asked if there was anything that could be done to the bill to make it palatable. SEN. BECK said that the problem was the fiscal note going out in the future years. He said he knew there wasn't much immediate fiscal impact, but was by the next legislative session. He said they would just have to come back with another bill. He said "The train is running and that's the way it is." SEN. TESTER said that the people involved are firemen. The bill went out of the State Administration Committee heartily. There was testimony in committee that if these firefighters were called to an accident, they were there in a minute. He said he understood the fiscal responsibility, but he did not think it wise or healthy to table the bill. He thought it was a bad decision, and encouraged the committee to vote for the bill or against the table.

**Vote:** Motion TO RECONSIDER COMMITTEE ACTION ON SB 289 carried 10-8 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting no.

**Motion:** SEN. BECK moved that SB 289 BE TABLED.

**Motion:** SEN. JERGESON moved a SUBSTITUTE DO NOT PASS RECOMMENDATION ON SB 289.

**Discussion:**

SEN. JERGESON said that this was a bill that should come out of committee and have the floor determine whether they want to uphold or overturn an adverse committee report. He thought the committee should show a little courage and send it out. If the intent was to kill the bill, then it should be sent out to the floor for confirmation. He intended to vote no.

**Vote:** Motion DO NOT PASS RECOMMENDATION ON SB 289 failed 3-15 with Cobb, Shea, and Tester voting aye.

**Vote:** Motion that SB 289 BE TABLED carried 10-8 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting no.



**CHAIRMAN KEENAN** apologized for "what had to be done tonight." He accepted full responsibility for it. He said it was just a responsibility that the committee had when it comes to fiscal notes. He said it was not fun, and he was sorry to put the committee in that position.

**ADJOURNMENT**

Adjournment: 7:50 P.M.

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SEN. BOB KEENAN, Chairman

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PRUDENCE GILDROY, Secretary

**EXHIBIT** (fcs42aad)